IN THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

S.C (F/R) Application

No. 67/2024

In the matter of an application in terms of

Articles 17 and 126 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Prof. Savitri Goonesekere,

No. 304/5, Park Road,

Colombo 05.

PETITIONER

VS.

1. Hon. The Attorney General,

Attorney General's Department,

Colombo 12.

And 13 Others

RESPONDENTS

Proceedings and Order of Court

24/07/2024

Before : **YASANTHA KODAGODA, PC. J.**
ACHALA WENGAPPULI, J.
MAHINDA SAMAYAWARDHENA, J.

Geoffrey Alagararatnam, PC with Pulasthi Hewamanna, Harini Jayawardena instructed by Supuni Gunasekara for the Petitioner in *SC. FR. 67/24.*

Thishya Weragoda with Sanjaya Marambe, Sajini Wickremasinghe and Kalani Dassanayake instructed by Ms. Thamila Perera for the Petitioners in *SC. FR. 68/24 & 80/24.*

Suren Fernando with Luwie Ganeshadasan and Khyati Wickramanayaka instructed by Hasanthi Dilana Dias for the Petitioner in *SC. FR. 71/24.*

Saliya Pieris, PC. with Thanuka Nandasiri and Ms. Dinithi Jayasinghe for the Petitioners in *SC. FR. 75/24.*

Viran Corea, PC with Thilini Vidanagamage instructed by Praveen Premathilake for the Petitioners in SC. FR. 82/2024.

Lakshan Dias with Miss. Maneesha Kumarasinghe and Miss. Hirushi Jayawardene instructed by Miss. Madara Perera for the Petitioner in SC. FR. 84/24.

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Dr. Romesh de Silva, PC. with Sugath Caldera, Niran Anketell, Hafeel Farisz instructed by Sanath Wijewardane for the 14th Respondent in *SC. FR. 67/24*, for the 1st Respondent in *SC. FR. 68/24*, for the 12th Respondent in *SC. FR. 71/24*, for the 11th Respondent in *SC. FR. 72/24*, for the 10th Respondent in *SC. FR. 75/24*, for the 14th Respondent in *SC. FR. 79/24*, for the 10th Respondent in *SC. FR. 80/24*, for the 12th Respondent in *SC. FR. 82/24*, for the 13th Respondent in *84/24*.

Ermiza Tegal with Ms. Namashya Ratnayake instructed by Ms. Wasana Wickreamasekara for the 10th & 12th Respondents in *SC. FR. 67/24*, 8th and 10th Respondents in *SC. FR. 68/24*, 9th and 11th Respondents in *SC.FR. 71/24*, 8th and 10th Respondents in *SC. FR. 72/24*, 7th and 8th Respondents in *SC. FR. 75/24*, 10th and 12th Respondents in *SC. FR. 79/24*, 7th and 8th Respondents in *SC. FR. 80/24*, 9th and 11th Respondents *in SC. FR. 82/24*, 9th and 11th Respondents in *SC. FR. 84/24*.

Farman Cassim, PC. with Vinura Kularatne, Ms. Jessica Abeyrathne and Ms. Faadhila Thassim for the 6th & 9th Respondents in *SC. FR. 67/24*, 4th and 7th Respondents in *SC. FR. 68/24*, 5th and 7th Respondents in *SC. FR. 71/24*, 4th and 6th Respondents in *SC. FR. 72/24*, 3rd and 6th Respondents in *SC. FR. 75/24*, 6th and 7th Respondents in *SC. FR. 79/24*, 3rd and 6th Respondents in *SC. FR. 80/24*, 5th and 7th Respondents in *SC. FR. 82/24* instructed by Shayamali Athukorala

Nerin Pulle, PC, ASG, with Sajith Bandara, SC, for the 1st, 2nd, 3rd, 4th, 5th, 7th, 8th, 11th & 13th Respondents in *SC.FR.No.67/2024*, for 2nd, 3rd, 5th, 6th, 9th, 11th, 12th, 13th, 14th, 15th, 16th & 17th Respondents in *SC.FR.No.68/2024*, for 1st, 2nd, 3rd, 4th, 6th, 8th, 10th & 13th Respondents in *SC.FR.No.71/2024*, for 1st, 2nd, 3rd, 5th, 7th & 9th Respondents in *SC.FR.No.72/2024*, for 1st, 2nd, 4th, 5th, 9th, 11th & 12th Respondents in

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SC.FR.No.75/2024, for 1st, 2nd, 3rd, 4th, 5th, 8th, 9th & 11th Respondents in *SC.FR.No.79/2024*, for 1st, 2nd, 4th, 5th, 9th, 11th & 12th Respondents in *SC.FR.No.80/2024*, for 1st, 2nd, 3rd, 4th, 6th, 8th & 10th Respondents in *SC.FR.No.82/2024* & for 1st, 2nd, 3rd, 4th, 6th, 7th, 10th, 12th & 14th Respondents in *SC.FR.No.84/2024*.

The unanimous order of Court was pronounced in Open Court. The delivered order is as follows:

"Appearance for the parties as recorded previously.

With the consent of the parties, consolidated proceedings took place with regard to all the Applications.

On 8th July 2024, following the commencement of proceedings, learned Additional Solicitor General for the 1st to 5th, 7th, 8th, 11th and 13th Respondents made an application (referred to in the proceedings of that day), the matter was inquired into, and an order in that regard was delivered by Court. That order has been recorded in the proceedings. Thereafter, some of the learned counsel for the Petitioners supported their respective Applications. Remaining counsel for the Petitioners supported their respective Applications on 9th July 2024.

On 15th, 16th and 17th July 2024 learned President's Counsel for the 14th Respondent in SC/FR 67/2024 addressed Court.

On 17th July 2024, learned Additional Solicitor General for the 1st to 5th, 7th, 8th 11th and 13th Respondents also addressed Court.

On 18th July 2024, learned junior Counsel for the 6th and 9th Respondents and learned Counsel for the 10th and 12th Respondents addressed Court.

Thereafter, all counsel for the Petitioners exercised their right of reply.

It is necessary to record that, due to extensive submissions learned counsel made on behalf of their respective clients, court sessions had to be conducted during extended hours. Learned

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counsel consented to proceedings exceeding routine hours of court. This Court appreciates the cooperation extended by counsel. It is also necessary to note that the submissions made to court by learned counsel for all parties were extremely useful towards enabling this Court to arrive at certain findings. Therefore, this Court wishes to extend its appreciation to learned counsel for all parties.

In this order, references to certain parties in SC/FR 67/2024 shall be taken as being references to the same parties in the connected Applications, though there citing as Respondents may differ.

Upon a consideration of the totality of the material placed before this Court and the extensive submissions made by learned counsel, this Court has arrived at the finding that on the question of the Constitutionality of the appointment of the 14th Respondent in SC/FR 67/2024 - Mr. T. M. W. Deshabandu Tennakoon as the Inspector General of Police, the Petitioners have made out a strong prima facie case suggestive of the said appointment being contrary to the applicable provisions of the Constitution. In the circumstances, as required by law, this Court grants Leave to Proceed under Article 12(1) of the Constitution against the 1st Respondent Honourable Attorney-General who represented His Excellency the President under and in terms of Article 35(1) of the Constitution in such representative capacity, the 4th Respondent the Speaker of Parliament – Hon. Mahinda Yapa Abeywardana in his capacity as the Chairman of the Constitutional Council, the 14th Respondent in SC/FR 67/2024 Mr. T.M.W. Deshabandu Tennakoon, and against the corresponding Respondents in the connected Applications.

Furthermore, on a consideration of the strong prima-facie case presented by the Petitioners, and the applicable principles of law, this Court makes interim order restraining the 14th Respondent in SC/FR 67/2024 Mr. T. M. W. Deshabandu Tennakoon from exercising the powers, functions and responsibilities of the office of the Inspector General of Police. This interim order shall be valid until the final determination of these Applications.

In view of the foregoing interim order, His Excellency the President may, should he wish to, consider making an appointment in terms of the law for a suitable person to be appointed to act

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in the post of Inspector General of Police for the duration of the operation of the afore-stated interim order. "

This Court grants a period of 06 weeks' time to all Respondents to file objections, should they wish to. From the time of the receipt of the objections of the Respondents, the Petitioners, may should they wish to, file Counter Affidavits. Written Submissions are to be filed in terms of Rules of Court.

As regards fixing the date of hearing, Court consulted the learned Counsel and they expressed consensus that the matter may be fixed for hearing on 11.11.2024. Accordingly, that date was granted.

Hearing is fixed for **11.11.2024.**

The Registrar is directed to incorporate the order made in Open Court into the proceedings of today.

The Registrar is also directed to issue certified copies of today's order upon application being made. However, both Dr. Romesh de Silva, PC. as well as Mr. Nerin Pulle, PC. ASG were advised by Court to take notice of the order made by Court.

All these matters are to be listed before one Bench.

Sgd/-

(Approved by Hon. Yasantha Kodagoda, PC. J.)

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